

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

**MATTHEW KING and
KATHRYN KING,**

Plaintiffs,

v.

BANK OF AMERICA CORPORATION,

Defendant.

Civil Action No. 7:14-CV-169 (HL)

ORDER

This case is before the Court on Defendant Bank of America, N.A.'s Motion to Cancel Notice of Lis Pendens. (Doc. 11). Defendant moves the Court to cancel the Notice of Lis Pendens filed by Plaintiffs Matthew King and Kathryn King dated August 29, 2014 and recorded in the deed records of the Thomas County Superior Court in Lien Book 107, Page 383 as to the following real property: 7180 Ozell Road, Boston, Thomas County, Georgia, 31626, the property that has been the subject of this litigation.

Under Georgia law, "there is no specific statutory authorization for the filing of a motion to cancel a notice of lis pendens." Taylor v. Wachovia Mort. Corp., 2009 WL 249353, at *9 (N.D. Ga. Jan. 30, 2009) (quoting Jay Jenkins Co. v. Fin. Planning Dynamics, Inc., 256 Ga. 39 (1986)). However, once an underlying action has been dismissed, a trial court has the authority to cancel a lis pendens notice. See Woodberry v. Bank of America, 2012 WL 113658, at *2

(N.D. Ga. Jan. 12, 2012); see also Triple Net Props., LLC v. Burruss Dev. & Constr., Inc., 293 Ga. App. 323 (2008) (holding that a trial court may cancel a notice of lis pendens following a grant of summary judgment to defendant); Zohoury v. Zohouri, 218 Ga. App. 748, 750 (1995).

On April 30, 2015, this Court entered an order finding that Plaintiffs' complaint for an alleged wrongful foreclosure failed to state a claim upon which relief could be based and granting Defendant's motion to dismiss. (Doc. 10). Accordingly, the Court has the authority to cancel the notice of lis pendens as requested by Defendant. The Court hereby directs the Clerk of the Thomas County Superior Court to cancel the lis pendens notice filed by Plaintiffs and recorded at Lien Book Lien Book 107, Page 383 of the Thomas County, Georgia real estate records.

Now that this matter is resolved, the Clerk of Court is directed to enter judgment in favor of Defendants and to close this case.

SO ORDERED this 15th day of June, 2015.

s/ Hugh Lawson
HUGH LAWSON, SENIOR JUDGE

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